

**Department of State Health Services
Agenda Item for State Health Services Council
August 10, 2005**

Agenda Item Title: Amend 25 TAC 169.102, Rule Relating to the Animal Friendly Grants.

Agenda Number:

Recommended Council Action:

☐ For Discussion Only

☒ For Discussion and Action by the Council

Background: The Department of State Health Services oversees the administration of the Animal Friendly Grants, the submission and review of grant applications, and the award of the grants. The grants are made to eligible organizations to increase the sterilization of dogs and cats owned by the general public at minimal or no cost.

Summary: The rule concerns procedures for making grants to eligible organizations for the purpose of providing low-cost dog and cat sterilization to the general public and the four (4)-year rule review is due. The amendment makes technical changes and updates the legacy agency name.

Summary of Stakeholder Input to Date (including advisory committees): Regional and central office Zoonosis Control staff, Texas Animal Control Association, Texas Humane Legislative Network, Texas Federation of Humane Societies, Humane Society of the United States, Southwest Texas Animal Care and Control Association, and the Texas Municipal League were consulted.

Proposed Motion:

Agenda Item Approved by: _____

Presented by: Dr. Eric Fonken **Title:** Acting Zoonosis Control Group Manager
Program/Division: Zoonosis Control Group/Division for Prevention & Preparedness
Contact Name/Phone: Debbie Speicher, 458-7111 ext. 2279

Date Submitted

Title 25. HEALTH SERVICES
Part 1. DEPARTMENT OF STATE HEALTH SERVICES
Chapter 169. Zoonosis Control
Subchapter E. Dog and Cat Sterilization
Amendments §169.102

Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission on behalf of the Department of State Health Services (department) proposes an amendment to §169.102, concerning the Department of State Health Services Animal Friendly Grants.

BACKGROUND AND PURPOSE

The amendment is necessary to comply with Government Code, Chapter 828, Subchapter E, “Dog and Cat Sterilization,” which requires the department to make grants to eligible organizations for the purpose of providing low-cost dog and cat sterilization to the general public.

Government Code, §2001.039, requires that each state agency review and consider for re-adoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Section 169.102 has been reviewed and the department has determined that reasons for adopting the section continue to exist because a rule on this subject is needed.

SECTION-BY-SECTION SUMMARY

Amendment to §169.102 is necessary to comply with the mandated four-year rule review, update the legacy agency name, change the program name to the “Zoonosis Control Group” instead of “Zoonosis Control Division”, and to replace the words “surgery” with “sterilization”.

FISCAL NOTE

Rolando Garza, Acting Section Director, Environmental and Consumer Safety Section, has determined that for each year of the first five-year period that the section will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the section as proposed.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Mr. Garza has also determined that there will be no effect on small businesses or micro-businesses required to comply with the section as proposed. This was determined by interpretation of the rule that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the section. There are no anticipated economic

costs to persons who are required to comply with the section as proposed. There is no anticipated negative impact on local employment.

PUBLIC BENEFIT

In addition, Mr. Garza has also determined that for each year of the first five years the section is in effect, the public will benefit from adoption of the section. The public benefit anticipated as a result of enforcing or administering the section will be the distribution of funding to provide low-cost surgical sterilization of dogs and cats, thereby reducing the public health threat due to stray animals.

REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The department has determined that the proposed amendment does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Debbie Speicher, Department of State Health Services, Community Preparedness Section, Zoonosis Control Group, 1100 West 49th Street, Austin, Texas 78756, or by email to Debbie.Speicher@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the Texas Register.

STATUTORY AUTHORITY

The proposed amendment is authorized by Health and Safety Code, §828.014, which provides the department with the authority to make grants to eligible organizations for the purpose of providing low-cost dog and cat sterilization to the general public; and Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Chapter 1001, Health and Safety Code.

The proposed amendment affects Health and Safety Code, §§828.014 and 1001; and Government Code, Chapter 531.

Legend: (Proposed amendment)

Single Underline = Proposed new language

[Bold Print and Brackets] = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision

§169.102. Department of State Health Services **[Texas Department of Health]** Animal Friendly Grants.

(a) Purpose.

(1) (No change.)

(2) The grants shall be known as a part of the “Department of State Health Services **[Texas Department of Health]** Animal Friendly Grants.”

(3) (No change.)

(b) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

(1) (No change.)

[(2) Commissioner – Commissioner of Health or his or her designee.]

[(2) [(3)] Department – Department of State Health Services **[Texas Department of Health].]**

[(3) [(4)] Local non-profit veterinary medical association – An organization set up by and comprised of several volunteer veterinarians in their immediate region for the purpose of presenting continuing education, planning group activities, or discussing issues common to their professional field.

[(4) [(5)] Nonprofit organization – A private, nonprofit, tax-exempt corporation, association or organization under Internal Revenue Code of 1986, §501(c)(3) (26 United States Code §501(c)(3)).]

[(5) [(6)] Owner – A person which feeds, shelters, harbors, has possession or control, or has the responsibility to control an animal.

(c) - (f) (No change.)

(g) Procedures for Grant Announcements.

(1) (No change.)

(2) The department shall maintain a list of persons to be notified of requests for proposals. Any person wanting to be placed on the list should contact: Animal Friendly Grants, Zoonosis Control Group **[Division]**, 1100 West 49th Street, Austin, Texas 78756.

(3) (No change.)

(h) - (i) (No change.)

(j) Selection Criteria.

(1) No grant shall be approved unless, in the opinion of the department:

(A) - (C) (No change.)

(D) the applicant specifies how the general public will be made aware of the availability of low-cost sterilization **[surgery]**.

(E) (No change.)

(2) A grant application will be given funding preference, in a manner determined by the department and announced in the request for proposal, to the extent that it:

(A) - (B) (No change.)

(C) demonstrates a low cost for sterilization **[surgery]** on a per animal basis, thereby maximizing the number of animals which can be sterilized.

(D) - (E) (No change.)

(k) – (l) (No change.)